Separate but Equal: Property Rights and the Legal Independence of Buddhist Nuns and Monks in Early North India

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—for Patrick Olivelle, who has been in all but the conventional sense a *dharmabhrātṛ*—

Virtually nothing is known about the relationships in early India between actual Buddhist male monasteries (*vihāras*) and female nunneries (*varṣakas, upassayas*) as institutions.[1] Certainly the enormous Buddhist monastic literature now contains provisions that would have rendered nuns ritually and hierarchically subservient to and dependent on monks, and this is especially the case in regard to the promulgation of the notorious eight *gurudharmas*, or "heavy rules of conduct," incumbent on nuns alone.[2] But even this particular piece of male craftsmanship did not address such issues as the administrative and legal relationships between monks and nuns, or *vihāra* and *varṣaka*. Indeed, in spite of the fact that any treatment of such issues would be of considerable interest not just for the study of the Indian Buddhist nun, but also for the history of women in early India, and for the study of Indian law, nothing yet seems to have been noted in the literature that would bear on these points. This situation alone would seem to justify simply presenting—in as economical a fashion as possible—a series of short texts from a Buddhist monastic code (*vinaya*) that does in fact directly address the property rights and legal independence and separation of nuns and nunneries and monks and monasteries. Such a presentation, moreover, is made even more suitable by the fact that these texts, while never as detailed as one might like, are so clear that they require little commentary.

The monastic code in question is the *Mūlasarvāstivāda-vinaya* and it is itself enormous: its Tibetan translation, which appears to be complete, runs to thirteen volumes and the rough equivalent of eight thousand pages. It has been called "one of the masterpieces of Sanskrit literature," even though only a limited part of it has come down to us in that language, and it is indeed remarkably rich in story literature that ranges from the sublime to the ridiculous—it contains a good deal of humor and satire, much of it directed at certain kinds of monks and nuns, for example.[3] But as recent studies have begun to demonstrate, it is also rich in sophisticated legal texts and points of discussion. It has—again only as examples—detailed

1. For the term *varṣaka* see below.

2. For old and standard views on the Pāli version of these rules see, for example, I. B. Horner, *Women under Primitive Buddhism: Laywomen and Almswomen* (London, 1930), 118–61; M. Wijayaratna, *Les moniales bouddhistes: Naissance et développement du monachisme féminin* (Paris, 1991), 29–32.—Note that although "nun" is used here throughout for *bhikṣuṇī*, and "monk" for *bhikṣu*, this is a matter of convenience and is certainly not based on any conviction that these are good translations of the original terms; see G. Schopen, "The Buddhist *Bhikṣu*'s Obligation to Support His Parents in Two Vinaya Traditions," *Journal of the Pāli Text Society* 29 (2007): 107–36, esp. 132.

3. See, for example, G. Schopen, "The Buddhist Monk as a Comic Figure: On Reading a Buddhist Vinaya as Indian Literature," *Journal of Indian Philosophy* 35 (2007): 201–26; for satire directed towards a nun see Schopen, "On Emptying Chamber Pots without Looking and the Urban Location of Buddhist Nunneries in Early India Again," *Journal asiatique* 296 (2008): 229–56.

rules on the use of permanent endowments and written loan contracts; full discussions of the lay ownership of Buddhist monasteries; and what approaches a fully worked-out system of monastic inheritance law, which explicitly addresses the distinction and relationship between monastic and secular law.[4] This system is particularly germane because the texts to be presented here form a part of it.

As is the case with all Buddhist monastic codes that have come down to us, the form in which we have this *Vinaya* is relatively late—they all reflect a fully developed monasticism—although there is now a general consensus that the *Mūlasarvāstivāda-vinaya* was very likely to have been redacted in the early centuries of the Common Era, and in a considerable number of specifics what is found in this code corresponds to what occurs in the Indian archaeological and inscriptional records of the same period—in this sense, at least, the contents of this code can often be independently dated to this time.[5] But, obviously, to be redacted at a certain point in time would necessarily require that a good deal of the material that was redacted was older and already current prior to the redactional event, and this too can sometimes be confirmed by the same sources—and some of it, of course, must be later. There is, unfortunately, no easy way to sort this out.

Attempts to determine the chronological relationships among the various parts of this huge *Vinaya* have yet to be undertaken, and there have already been some missteps, one of particular interest here since it involves the last section of this code, which is now called the *Uttaragrantha*, and it is from this section that the texts to be presented here come. More than fifty years ago, and apparently with little knowledge of what it actually contained, A. C. Banerjee described the *Uttaragrantha* as an "appendix," and said, "This work tells us nothing new; it is only an abridgement of the [other] Vinaya texts."[6] But even though a great deal of work remains to be done on the *Uttaragrantha*, and its component parts, it is already clear that Banerjee's characterization is very much off the mark. In those cases noted so far, for example, where the "same" text occurs both in the *Uttaragrantha* and some other section of this *Vinaya* there are indications or details that point to the priority of the version in the *Uttaragrantha*.[7] There is also and already a significant list of rules and practices that are referred to in various sections of this *Vinaya* whose initial promulgation occurs only in the *Uttaragrantha*: "For example, the *Śayanāsana-*, *Pārivāsika-*, and *Kṣudraka-vastus* of the *Mūlasarvāstivāda-vinaya* all take for granted that the date must be formally announced every day in a Mūlasarvāstivādin monastery, and that each day verses must be recited for the monastery's 'donor' or owner, but the rule requiring both is found only in the *Uttaragrantha*."[8] There is also a set of four or five festivals (*maha*) connected with the events in the early life of the Buddha that is frequently referred to in the *Kṣudrakavastu*, and in both the *Bhikṣu-* and *Bhikṣuṇī-vibhaṅgas*, but their "origin tale" and initial authorization are found only in the *Uttaragrantha*.[9] Indeed, although there is a long section in the *Cīvaravastu* dealing with the proper handling of a dead monk's estate, the initial rule requiring monks to

4. See respectively Chs. 3, 8, and 5, in G. Schopen, *Buddhist Monks and Business Matters: Still More Papers on Monastic Buddhism in India* (Honolulu, 2004).

5. Schopen, *Buddhist Monks and Business Matters*, 19ff.

6. A. C. Banerjee, *Sarvāstivāda Literature* (Calcutta, 1957), 99.

7. Schopen, *Buddhist Monks and Business Matters*, 125.

8. Schopen, *Buddhist Monks and Business Matters*, 124, and ch. 9.

9. For some references to these festivals see *Kṣudrakavastu*, Derge 'dul ba Da 177a.1; 181b.1; *Bhikṣu-vibhaṅga*, Derge 'dul ba Cha 59b.3. For the initial authorization of these same festivals see *Uttaragrantha*, Derge 'dul ba Pa 140a.2–.7. All references to, and citations of, Tibetan canonical material are to or from the Derge printing reprinted in *The Tibetan Tripiṭaka: Taipei Edition*, ed. A. W. Barber (Taipei, 1991), unless otherwise noted.

do so occurs only in the *Uttaragrantha*.[10] Far, then, from appearing as an add-on, the *Uttaragrantha* would seem to have been foundational, and that is precisely how the tradition itself seems to have taken it: the great Mūlasarvāstivādin digester Guṇaprabha, for example, places at the head of his *sūtras* dealing with the rules of monastic inheritance his treatment of texts from the *Uttaragrantha*—in fact the very texts presented here—and more than half of the texts he digests in that section come from it.[11] Much the same is true of Viśākhadeva's treatment of the topic in his *Vinayakārikā*—he too begins his presentation of the technicalities of inheritance with our texts from the *Uttaragrantha* and they are central to it.[12] For both of these early medieval Mūlasarvāstivādin "canonical lawyers" the *Uttaragrantha*—and our texts in particular—were a central, indispensable, and foundational source of their monastic law.

Given the status and role of the *Uttaragrantha* in Mūlasarvāstivādin circles, it is unfortunate indeed that only a fragment of unknown extent and content has come down to us in Sanskrit so far, and even it remains unpublished.[13] But the absence of a Sanskrit text is at least in part—and perhaps in large part—compensated for by the fact that we have the text in a Tibetan translation, and, to judge by what little is known of the Sanskrit fragment, this translation is—as is usually the case with Tibetan translations—a very close one. It is, of course, perfectly understandable that it is difficult for those who do not know both Sanskrit and Tibetan to appreciate just how close these translations can be, and many Indologists remain—rightfully—skeptical. But in regard to *vinaya* texts, for example, we have a considerable amount of material preserved in Sanskrit, and when the Tibetan translations are put alongside this material, their faithfulness is, more often than not, startling. In fact, these Tibetan translations often allow us to see that the Sanskrit texts that we have are faulty and to "correct" them. The availability of this considerable amount of the same *vinaya* material in both languages, and the established fact that Tibetan translators were reasonably consistent in their renderings, mean, moreover, that even when we have only the Tibetan translation we often can have a pretty good idea of what the Sanskrit being translated might have been. All of this, however, is not to say that this is by any means always the case—there are many knotty problems that remain, and there is obviously no real substitute for the original. It is just to say that there are good reasons for thinking that it is unlikely that the text of the Tibetan translation will differ markedly from what could have been read in the Sanskrit original, and this might be more especially the case in regard to our texts, since they are by and large simple, straightforward narrative texts without a lot of technical vocabulary and of no great length.

Four of our little texts (I, II, V, and VI) come from the section of the *Uttaragrantha* called the *Nidāna*,[14] and they follow one another without a break. The four form two structurally

10. Schopen, *Buddhist Monks and Business Matters*, 152–54 for the text and a translation of the initial rule.

11. Schopen, *Buddhist Monks and Business Matters*, 126–28.

12. *Vinayakārikā*, Derge, bstan 'gyur, 'dul ba Shu 55a.4ff. The presence of our rule in these medieval handbooks meant that they continued in circulation for a very long time, both in India and in Tibet, where these handbooks formed an important part of higher monastic education.

13. There are an unknown number of damaged folios corresponding to text now found in the Tibetan *Uttaragrantha* that have been tentatively identified in the Schøyen collection, but many of them are stuck together and require technical restoration.

14. On this and other sections of the *Uttaragrantha*—some of which are preserved as separate texts in Chinese—the following important preliminary papers are essential: S. Clarke, "The *Mūlasarvāstivāda Vinaya Muktaka*," *Buddhist Studies* (*Bukkyō Kenkyū*) 30 (2001): 81–107; Clarke, "The *Mūlasarvāstivādin Vinaya*—A Brief Reconnaissance Report," in *Sakurabe Hajime hakushi kijukinen ronshū: shoki bukkyō kara abidaruma e* (Kyoto, 2002), 45–63; Clarke, "Right Section, Wrong Collection: An Identification of a Canonical Vinaya Text in the Tibetan *bstan 'gyur—Bya ba'i phung po zhes bya ba* (*Kriyāskandha-nāma*)," *JAOS* 124 (2004): 335–40.

parallel pairs. One of each pair deals with monks, the other with nuns, using the same frame-story and virtually the same language, adjusted for gender. Both sets are repetitive to be sure, but here the repetition itself is reproduced because it reinforces a good part of the point: "What is good for the gander is good for the goose." The Tibetan text here is, as already noted, that found in the Derge printing and reproduces its punctuation. Variants from the Tog Palace manuscript *bka' 'gyur* and the Peking printing are given in notes.

I (= ii)[15]

Derge 'dul ba Pa 86a.2–.6 = Tog 'dul ba Na 122b.5–123a.5 = Peking 'dul ba Phe 83b.2–.7

gleng gzhi ni mnyan du yod pa na ste[1)] */ mnyan du yod pa na dge slong gzhan zhig dus 'das nas de'i lhung bzed dang chos gos*[2)] *dge slong ma zhig gi lag tu bzhag go /*

dge slong dag gis de'i ro bsregs nas slar gtsug lag khang du phyin nas lhung bzed dang chos gos dag btsal na ma rnyed de / de dag gis[3)] *dge slong ma'i dbyar mo khang na dge slong ma ming 'di zhes bya ba zhig la yod par shes nas de dag gis*[4)] *dge slong ma'i dbyar mo khang du dong ste / 'phags ma dge slong 'di zhes bya ba dus*[5)] *'das pa de'i lhung bzed dang chos gos 'di na gtams*[6)] *shing 'dug pa de tshur byin cig ces smras pa dang / des smras pa / 'phags pa dge slong de gang du dus 'das* [/]

nged kyi gtsug lag khang du dus las[7)] *'das so /*

'phags pa khyed kyi de na mchis pa ni khyed dbang[8)] */ bdag cag gi de na mchis pa ni bdag cag dbang ngo / ji ltar*[9)] *zhe na /*[10)] *bdag cag gi yang chos kyi ming po lags so zhes smras pa dang / de ltar gyur pa dge slong dag gis bcom ldan 'das la gsol pa dang / bcom ldan 'das kyis dge slong gi lhung bzed dang chos gos ni dge slong dag dbang gis dge slong ma dag ma 'chang shig*[11)] *ces bka' stsal to /*

[1)] Peking: *te.* [2)] Tog: *chos gos dang lhung bzed*, but everywhere else in Tog the order is *lhung bzed dang chos gos.* [3)] Peking: *gi.* [4)] Tog omits *gis.* [5)] Peking inserts *las.* [6)] Peking: *btams.* [7)] Tog omits *las.* [8)] Tog: *mnga'.* [9)] Tog: *ji lta.* [10)] Tog inserts *de* here, and a *de* is found in all three versions in the parallel statement in II: so read. [11)] Tog: *zhig.*

The determining event was in Śrāvastī (*śrāvastyāṃ nidānam*). When a certain monk died in Śrāvastī his bowl and robes had been left in the hands (*haste sthāpitaṃ*) of a nun.

After the monks had cremated his corpse and had returned to the *vihāra*, when they looked for his bowl and robes they did not find them. When they came to know that they were with a nun named so-and-so in a retreat house of the nuns (*bhikṣuṇī-varṣaka*), they went to the retreat house of the nuns, and they said: "Noble Lady, you must return the bowl and robes of the deceased monk named so-and-so that were left (*saṃnyasta*) and remain here!"

But she said: "Noble Ones, where did that monk die?"

"He died in our *vihāra*."

"Noble Ones, what is in that place of yours you are the owner of. What is in that place of ours we are the owner of. How? He was also our brother-in-the-Dharma (*dharma-bhrātṛ*)." And when this was said the monks reported to the Blessed One what had occurred, and the Blessed One said: "Since monks are the owner of the bowl and robe of a monk, nuns must not keep them!"[16]

15. Lowercase Roman numerals in parentheses indicate that the texts in question form a part of the series of texts that Guṇaprabha treats in his "system" of Mūlasarvāstivādin monastic inheritance law in his *Vinayasūtra*, and where in that series they occur—see the table in Schopen, *Buddhist Monks and Business Matters*, 126–27 (= Schopen, "Dead Monks and Bad Debts: Some Provisions of a Buddhist Monastic Inheritance Law," *Indo-Iranian Journal* 44 [2001], 103–4).

16. It should be noted that the boundaries of direct speech in Mūlasarvāstivādin *Vinaya* texts in *both* Sanskrit and Tibetan are not always absolutely certain or well marked, and that that is true here. Note too that the absence of a final particle after *dbang* in the collocation *'phags pa khyed kyi de na mchis pa ni khyed dbang /* makes it possible to take it as a rhetorical question: "Are you the owners of what is in that place of yours?" Since, moreover, possession or ownership is expressed in a variety of ways in Sanskrit the exact idiom that the Tibetan might be translating

To begin at the beginning here a few lexical points need to be noted. First, usage makes it clear that in this literature 'bowl and robes', *pātracīvara*, is very often a shortened expression for all of what a monk has or personally owns. In contexts such as ours it is frequently used interchangeably with the term *mṛtapariṣkāra*, 'the personal belongings of the dead', the technical term for an "estate." Second, there is no suggestion here that the monk's "bowl and robes" had in any legal sense been deposited with the nun—they were not then an *ādhi* or *bandhaka*, a legal pledge or pawn, about which Indian *dharmaśāstra* has a great deal to say and which would have required specific remedies.[17] On the contrary—and the language found in a parallel account confirms this—they were informally left with her for safekeeping, and this parallel account in fact supplies most of the Sanskrit equivalents inserted in the above translation. The account (ix) is found in the *Cīvaravastu* and concerns the Monk Mūlaphalguna, who is described as "cherished by the nuns" (*bhikṣuṇībhāvanīya*).[18] When he is encouraged by them to attend the Festival of Toyikā (*toyikāmaha*), he is concerned about who will look after his "bowl and robes" (*ko 'tra mama pātracīvaraṃ sthāpayatīti*). The nuns of the Group-of-Twelve say they will, so he "made them over" (*samarpita* = *bzhag pa*) to them. They, however, "left them" (*saṃnyasta* = *gtad pa*) with the nun Mahāprajāpatī; she left them with the Monk Ānanda, and he put them in a *vihāra* (*vihāre sthāpita* = *gtsug lag khang zhig tu bzhag go*). When Mūlaphalguna dies at the festival, the chain, of course, has to be reconstructed, and in doing so the text twice uses the expression *haste sthāpita*, which in both instances is translated into Tibetan as *lag tu bzhag go*, and this is exactly what we find in our text. *saṃnyasta* also occurs again and is again translated as *gtad pa*, a past tense form of *gtod pa*. Our text has *gtams pa*—an uncommon term—but at least one source gives *gtod pa* as its synonym of *gtams pa*.[19] This, and the repeated use of *saṃnyasta* in the account of Mahāphalguna, would seem to make a case for its being the original behind *gtams pa* as well. Note incidentally that the narrative fact that Mūlaphalguna's "bowl and robes" end up in a *vihāra*, or male monastery, removes the issue that our text is dealing with: the disposition of the property of a deceased monk that had been left in "a retreat house of the nuns."

This last in fact is a third lexical item requiring brief comment. Our Tibetan text has *dge slong ma'i dbyar mo khang* and, in spite of even some very recent missteps, there is no doubt that it translates Sanskrit *bhikṣuṇī-varṣaka*, or that Sanskrit *varṣaka*—with or without an accompanying *bhikṣuṇī*—is in Mūlasarvāstivādin sources the most common term used for what we would call a nunnery or convent. Our text and the next to be treated are only additional clear examples of the narrative fact that in this literature monks live in *vihāras* and nuns live in *varṣakas*. This narrative fact, together with Mūlasarvāstivādin rule and further narrative accounts, moreover, establishes already a clear and distinct separation of the *vihāra* and the *varṣaka* in at least one important aspect: whereas Mūlasarvāstivādin rule dictates that

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both here and in II, V, and VI below is all but impossible to determine, but see Pāli *Vinaya* i 303.35: *bhikkhussa bhikkhave kālaṃ kate saṃgho sāmī pattacīvare*. It should also be noted that the narrative fact that the monks had here in effect performed the deceased's funeral should already have favored their right to his estate if provisions found elsewhere in our *Vinaya* were already in place. Elsewhere our *Vinaya*—like *dharmaśāstra*—seems to indicate that only those who have performed the funeral rites have rights to inherit (see G. Schopen, *Bones, Stones, and Buddhist Monks: Collected Papers on the Archaeology, Epigraphy, and Texts of Monastic Buddhism in India* [Honolulu, 1997], 213–14, for example). But our *Uttaragrantha* texts never raise the issue, neither here nor in II in the parallel case of the dead nun, perhaps indicating their priority or independence.

17. H. Chatterjee, *The Law of Debt in Ancient India* (Calcutta, 1971), 211ff.

18. *Cīvaravastu*, N. Dutt, *Gilgit Manuscripts* (Srinagar, 1942), vol. III, pt. 2, 143.15–145.12.

19. Zhang Yisun et al., *Bod rgya tshig mdzod chen mo* (Beijing, 1985), 1041.

a *vihāra* be located outside of towns and cities, it requires that a *varṣaka* be located inside them. The two institutions are, then, geographically separate and independent and are not to be found in the same place.[20] A fourth and final lexical item—*dharmabhrātṛ*—is central to the issue being negotiated in our text.

The nun's expressed claim to the dead monk's property is based on two linked assertions. The first is an assertion of the complete legal separation between the *vihāra* (the place where the monk died) and the *varṣaka* (the place where his property was physically to be found). Since, according to the nun, monks are the owners of what is in a *vihāra*, and nuns are the owners of what is in a *varṣaka*, this can only mean that the former get the body, but the latter get the goods. It might well be that there was a cheeky tone to this, as there is, for example, in another text in the series dealing with monastic inheritance: in (xiv), when a layman whom a dead monk had borrowed money from comes to collect, the other monks say to him: "Well, sir, since he [the monk in question] has been carried out to the cremation grounds, you will just have to go there and collect!"[21] This (possibly) dismissive response is then followed by the assertion or claim that involves our lexical item.

The nun claims that the dead monk was *also* a *chos kyi ming po* of the nuns, implicitly acknowledging the fact that he was a *chos kyi ming po* of the monks, and that this was related to their claim as well. And while a Sanskrit equivalent for the Tibetan collocation does not seem to be actually attested, equivalents for its component parts are certain—*chos* translates only *dharma*, and *ming po* translates *bhrātṛ*—and the whole can hardly be rendering anything other than the Sanskrit compound *dharmabhrātṛ*. That an attested equivalent for the compound *dharmabhrātṛ* is hard to come by is undoubtedly only a reflection of the fact that the term is very rare in Buddhist sources, and is almost certainly not a specifically Buddhist word. It occurs however, in the same important context in both the *Yājñavalkyasmṛti* and the *Arthaśāstra*. A verse in the former reads:

> *vānaprastha-yati-brahmacāriṇāṃ rikthabhāginaḥ* I
> *krameṇācārya-sacchiṣya-dharmabhrātrekatīrthinaḥ* II

And the latter has:

> *vānaprastha-yati-brahmacāriṇām ācārya-śiṣya-dharmabhrātṛ-samāna-tīrthyā rikthabhājaḥ krameṇa.*[22]

Patrick Olivelle translates the first of these as:

> The heirs of a hermit, of a renouncer and of a perpetual student [*brahmacārin*] are in that order, the teacher, the virtuous pupil and the spiritual brother and associate in holiness.[23]

And the second, of course, says virtually the same thing in prose. Here, then, we have a rule in the Hindu law of inheritance where the term *dharmabhrātṛ* is used, and used to designate

20. On the term *varṣaka* and the urban location of Buddhist nunneries see G. Schopen, "The Urban Buddhist Nun and a Protective Rite for Children in Early North India," to appear in a felicitation volume for Bhikkhu Pasadika, and the second paper cited above in n. 3.

21. See Schopen, *Buddhist Monks and Business Matters*, 128–29, for the text and a translation; see also pp. 137 and 141 for further examples in the same series.

22. T. Ganapati Sastri, *The Yājñavalkyasmṛti*, 2nd ed. (New Delhi, 1982), II.141; R. P. Kangle, *The Kauṭilīya Arthaśāstra*, 2nd ed. (Bombay, 1969), 3.16.37.

23. P. Olivelle, "Renouncer and Renunciation in the Dharmaśāstras," in *Studies in Dharmaśāstra*, ed. R. W. Lariviere (Calcutta, 1984), 144; see the discussion there for further references and the debate within the tradition as to how the verse is to be understood.

the rightful heir to the estate of a deceased co-religionist, and even in non-Buddhist Sanskrit sources it does not appear to be widely used elsewhere. The specificity of the term, and the fact that in both *dharmaśāstra* and our Buddhist *Vinaya* it is used in the same context—the disposition of the property of a co-religionist—would almost immediately suggest that the two sources cannot be unrelated. At the least it would have to be said that the nun in our Buddhist text appears to be invoking a principle or rule found in Hindu law as well, as the basis for her claim to the property of a deceased monk: it belongs to her and her sisters, or at least they have an equal claim on it, because the deceased was *also* their co-religionist or *dharmabhrātṛ*. The similarities between the seemingly different sources are too strong, it seems, to be coincidental, and this would not be the only instance of shared material—even of a very technical legal sort—between, for example, *Yājñavalkya* and our Buddhist *Vinaya*.[24] But how to describe more precisely the relationship of our sources remains a problem.

Chronology is the bugbear of Indian studies, and the situation here is just another example. Our *Vinaya* sits most comfortably, as already indicated, in the early centuries of the Common Era. But—putting aside the much disputed date of the *Arthaśāstra*—*Yājñavalkya* too is generally assigned to much the same period,[25] suggesting that at least these two are broadly contemporary. Here, however, there appears to be an important consideration that would seem to give priority to the latter: the nun in our text is not represented as introducing either the rule or the vocabulary, but as asserting the one as an established principle, and using the other as if it were a known commodity and an already current usage. Moreover, it seems clear in our *Vinaya* text that the nun represents the "old" position that caused the impasse, the position our text was meant to "update" or adapt to a "new" situation, or at least a situation it was not designed for: the presence of women as co-religionists and, therefore, potential claimants to such estates. But if our Buddhist text was adapting it in this way—and it may be difficult to read it otherwise—then obviously the principle, if not its specific textual formulation in *Yājñavalkya* and the *Arthaśāstra*, must have preceded it. It should also be noted that the Buddha's response actually leaves the "old" position intact.

In responding to the case reported to him by the monks—the "new" situation that our text is meant to address—the Buddha does not reject the assertion that what is in a *varṣaka* belongs to the nuns and what is in a *vihāra* belongs to monks. Nor does he reject the claim that a monk is a brother-in-Dharma and, therefore, a co-religionist of the nuns, or the implicit claim that the estate of a *brahmacārin* goes to his *dharmabhrātṛ*s. In fact, *in contexts dealing only with males*, the *Mūlasarvāstivāda-vinaya* repeatedly insists on the fact that the property of a dead monk goes to his *sabrahmacārin*s, and it is precisely this term that these Buddhist sources use over and over.[26] All that the ruling delivered in our text does, then, is introduce a gender distinction that puts limits on the application of those rules—dharmaśāstric and Buddhist—that are already in place. While, for example, the principle governing ownership of property in a *varṣaka* or *vihāra* is not rejected, its application is now limited by an even broader ruling that is to have precedence: the property of a *male brahmacārin* or monk must go at his death to *male sabrahmacārin*s regardless of where it might physically be. Contrary

24. Schopen, *Buddhist Monks and Business Matters*, ch. 3, esp. 80–81 (= Schopen, "Doing Business for the Lord: Lending on Interest and Written Loan Contracts in the Mūlasarvāstivāda-vinaya," *JAOS* 114 [1994]: 527–53, esp. 552–53).

25. R. Lingat, *The Classical Law of India* (Berkeley and Los Angeles, 1978), 99–100.

26. *Cīvaravastu, Gilgit Manuscripts* iii 2, 117.8–121.5, esp. 119.8 (translated at Schopen, *Buddhist Monks and Business Matters*, 115–16); also 115.9, 16; 116.15, 22; etc.

to how it might appear at first sight, the new provision does not weaken the legal separation between Buddhist monk and Buddhist nun, but rather appreciably strengthens it: it now appears all but absolute, although this too will require some modification.

A gendered provision of the sort delivered in our text, if even conceivable to theoreticians of *dharmaśāstra*, would almost certainly have been deemed completely unnecessary. Since all recognized co-religionists would have been, for them, male, the issue would simply not arise, and there is not—as far as I know—anything like this provision in *dharmaśāstra*. Given the absence of such a provision there, it would appear that if Buddhist theoreticians wanted to adapt dharmaśāstric rules of inheritance for their monks—and there is also other evidence that they did—then they would also have to add additional provisions to govern their nuns. This may have been an especially pressing issue in the early centuries of the Common Era and just before, since inscriptions from that period would seem to indicate that there were then as many Buddhist nuns as Buddhist monks, and that those nuns had the economic means to make a large number of independent donations.[27] They could not easily—or wisely—be ignored. And our monastic code did not do so.

There are texts in the *Mūlasarvāstivāda-vinaya* that represent nuns and monks in direct economic competition. A good and now easily available example concerns what is called the Great Festival (*mahāmaha*) during which the monks took an image in procession into town. This procession resulted, according to the text, in "very abundant" donations, but when the nuns asked for a share the monks refused. The nuns then set out their *own* image wagon. The Buddha, however, is then made to condemn this in very strong terms:

> Therefore, a nun must not set out a separate wagon at the time of the festival! If nuns set out a separate wagon at the time of the festival, they are as such a cause of division and are guilty of a very serious offence.[28]

Here, of course, it may be fair to see that modern bugaboo, the heavy hand of the misogynist monk, protecting its own interests, and one might expect to find it in our texts as well—certainly at least to this point the ruling of the Buddha appears to be decidedly one-sided. But any such expectation is, for moderns, happily disappointed. In regard to the property of deceased nuns, and for reasons probably connected to the fact that the nuns it knew were a significant presence, the Mūlasarvāstivādin tradition at least here conceded that, indeed, what was good for the gander was good for the goose: immediately following the text that declares that a deceased monk's property must go to monks is another, which in very similar language declares that the estate of a dead nun must go to nuns.

II (= iii)

Derge 'dul ba Pa 86a.6–b.4 = Tog 'dul ba Na 123a.5–b.4 = Peking 'dul ba Phe 83b.7–84a.4

> *mnyan du yod pa na dge slong ma gzhan zhig dus las*[1)] *'das nas de'i lhung bzed dang chos gos dge slong zhig la bzhag go /*
>
> *dge slong ma dag*[2)] *gis de'i ro bsregs nas / dge slong ma'i dbyar mo khang du*[3)] *lhags te / lhung bzed dang chos gos btsal*[4)] *na ma rnyed nas gtsug lag khang zhig na dge slong ming 'di*

27. Schopen, *Buddhist Monks and Business Matters*, ch. 11.

28. G. Schopen, *Figments and Fragments of Mahāyāna Buddhism: More Collected Papers* (Honolulu, 2005), 133–36, esp. 135; contrast this with the role of nuns and lay sisters in the account of another image procession from the same source: Schopen, "Taking the Bodhisattva into Town: More Texts on the Image of 'the Bodhisattva' and Image Processions in the *Mūlasarvāstivāda-vinaya*," *East and West* 55 (2005): 299–311.

zhes bya ba zhig la yod par shes nas / de dag gtsug lag khang du 'ongs te dge slong dag gi rkang ba la phyag 'tshal nas / 'phags pa dge slong ma ming 'di zhes bgyi ba dus las[1] *'das te / de'i lhung bzed dang chos gos 'di na mchis na / de bdag cag 'tshal gyis slar stsol cig ces smras pa dang / des smras pa / dge slong ma de gang du dus las*[1] *'das /*

bdag cag gi dbyar mo khang du dus las[1] *'das so /*

de ltar na 'phags ma khyed kyi[5] *de na 'dug pa ni khyed dbang mod / nged kyi de na yod pa ni nged dbang ste*[6] */ de yang*[7] *nged kyi chos kyi sring mo yin no zhes smras pa dang / de ltar gyur ba dge slong ma dag gis dge slong dag la smras pa dang / dge slong dag gis bcom ldan 'das la gsol nas / bcom ldan 'das kyis de ste dge slong ma'i lhung bzed dang chos gos yin na de dge slong ma dag gi yin te / dge slong ma dag dbang bas*[8] *na dge slong dag ma 'chang shig*[9] *ces bka' tsal to /*

[1]Tog omits *las*. [2]Tog has *rnams* instead. [3]Tog inserts *slar*. [4]Peking: *bcal*. [5]Peking: *kyis*. [6]Tog has *nged dbang ba'i steng du*; Peking: *nged dbang ba ste*. [7]Tog: *'ang*. [8]Peking omits *bas*. [9]Tog: *zhig*.

When a certain nun died in Śrāvastī, her bowl and robes had been left with a monk.

After the nuns had cremated her corpse, they assembled at the retreat house of the nuns (*bhikṣuṇī-varṣaka*), and when they looked for the bowl and robes, when they did not find them, after they came to know that they were with a monk named so-and-so in a *vihāra*, they went to the *vihāra*, and after venerating the feet of the monks they said: "Noble Sirs, the nun named so-and-so has died, and since her bowl and robes are here and we are seeking them, you must return them!"

But he said: "Where did that nun die?"

"She died in our retreat house."

"Indeed, Noble Ladies, what is in that place of yours you are the owner of. What is in that place of ours we are the owner of.[29] She was also our sister-in-the-Dharma (*dharma-bhaginī*)." And when this was said, and the nuns told other monks what had occurred, after those monks reported it to the Blessed One, the Blessed One said: "If the bowl and robes are a nun's they are the nuns', and since the nuns are the owners monks must not keep them!"

Our first and second texts are an obvious matched pair, and that they were promulgated as such and together would seem to be indicated by the fact that as we have them the second lacks an independent formal introduction or *nidāna*: *gleng gzhi ni mnyan du yod pa na ste* = *śrāvastyāṃ nidānam*—the obligatory formula which stands at the head of all separate texts—occurs only in I. Apart from this the two texts are almost perfectly parallel in both form and content. Even in their language basically they are the same account gendered differently, and here there is no asymmetry. Where, for example, in the male version females claim that the male deceased was a brother-in-the-Dharma or *dharmabhrātṛ*, in the female version males claim that the deceased female was a sister-in-the-Dharma or *dharmabhaginī*, and neither claim is rejected. In fact, as we will shortly see, these claims seem to be implicit in further rules. Here it might also be worth noting that this usage of *dharmabhaginī* is—for reasons already indicated—very likely to be a Buddhist innovation. The term does not appear to be used, and probably could not have been, in this sense, in *dharmaśāstra*, and even in Indian literature it has Buddhist associations: the Buddhist monk in Śūdraka's *Mṛcchakaṭika* refers to a nun as his *dharmabhaginī*.[30]

29. The same ambiguity that occurs in the parallel statement in I—see n. 16 above—also occurs here, and the same alternative rendering is possible here: "Are you the owners of what is in that place of yours?"

30. M. R. Kale, *The Mrichchhakatika of Sudraka* (Poona, 1924), 8.46+.

The gendering of the accounts is, of course, thoroughgoing and complete, and the hierarchical subservience of nuns to monks that is required by other rules is maintained and clearly visible. But ironically even this hierarchical subservience underlines the principle of legal equality delivered in our texts. In I when monks went to the *varṣaka* they immediately addressed the nuns without any formal preliminaries; but in II when nuns went to the *vihāra* they address the monks only "after venerating the feet of the monks." In I—and this is an established procedure everywhere in this literature—monks reported what occurred directly to the Buddha, but in II the nuns had to report it to monks who then themselves reported it to the Blessed One, and this too is standard procedure: nuns are not narratively given direct access to the Buddha in the same way as monks. What is striking about II, however, is that in spite of the fact that it reproduces the established hierarchical subservience of nuns to monks, *this has no influence or bearing on the nuns' separate and equal legal rights to property.* As can be easily seen, our text gives to nuns—without qualification and in virtually the same language—exactly the same exclusive rights to the property of a deceased nun that it gives to monks in regard to the estate of another monk. Here hierarchical status does not equate to legal status—the one is not a reflection of the other, and the legal separation and equality of nuns and monks in regard to property appears to be all but absolute. This almost certainly is the most noticeable and important message the author of these texts was trying to send.

That in theory at least the legal separation of nuns and monks was all but absolute appears, moreover, to be confirmed by other cases in this monastic code. A particularly good example of such a case deserves to be quoted at length because it shows this legal separation, because we have a good part of it in Sanskrit, and because that Sanskrit text is also a good example of the tone these *Vinaya* texts often have and reveals how much—in several senses—could be at stake here. This case is developed in two stages in two different places. The foundation is laid in the *Cīvaravastu*, and this section of our *Vinaya* is preserved in Sanskrit. It concerns the right to inherit of the attendant or nurse (*upasthāyaka*) of a dying monk.

III (= xx)[31]

Śrāvastyāṃ nidānam / tena khalu samayenānyatamo bhikṣur ābādhiko duḥkhito bāḍhaglānaḥ / tasya bhikṣuṇā upasthānaṃ kṛtam / tathāpi kālagataḥ / tasya pātracīvaraṃ vṛddhānte nītam / tatraikaṃ cīvaraṃ kenāpi nāśitam / makṣikābhir ākīrṇam / tataś cīvarabhājakenāsāv upasthāyiko 'bhihitaḥ / āyuṣmann alasas tvam / na tvayaitac cīvaraṃ śocitam / śocaya /

sa kathayati / tvaṃ pariṣkāraṃ bhājayiṣyasi / ahaṃ śocayiṣyāmi / tvam eva śocaya /

etat prakaraṇaṃ bhikṣavo bhagavata ārocayanti / glānopasthāyikasya ṣaṭ pariṣkārā dātavyāḥ / avaśiṣṭaṃ bhikṣubhir bhājayitavyam / upasthāyikāś ced bahavo bhavanti sarvaiḥ ṣaṭ pariṣkārāḥ sāmānyaṃ bhājayitavyāḥ /

apare bhikṣavo jñātamahāpuṇyāḥ kālaṃ kurvanti / teṣāṃ bahavaḥ pariṣkārāḥ śrāmaṇyapariṣkārā jīvitapariṣkārāś ca / vṛddhānte 'bhirohitāḥ / uktaṃ bhagavatā / upasthāyakena ṣaṭ pariṣkārā grahītavyā iti / sa vicārya vicārya praṇītāni gṛhṇāti /

bhagavān āha / na praṇītāni dātavyāni / bhikṣavo lūhāni dadati /

bhagavān āha / na lūhāni dātavyāni / api tu madhyāni dātavyānīti /

The punctuation here is, of course, the modern editor's and a bit heavy-handed. Keeping this in mind the text might be translated as follows:

The determining event was in Śrāvastī. On that occasion there was a monk who was afflicted, suffering, gravely ill. He was attended to by a monk, but even so he died. His bowl and robes

31. *Cīvaravastu, Gilgit Manuscripts*, iii 2, 122.20–123.15.

were brought to the seniors' end of the assembly. One of the robes there had been spoiled by something and was full of flies. The monastic official who distributed robes then said to that attendant: "You, Venerable, are a lazy fart![32] You have not cleaned this robe—clean it!"

But the attendant said: "You will be distributing the belongings while I will be doing the washing—wash it yourself!"

The monks reported this matter to the Blessed One, [and the Blessed One said]:[33] "The six standard belongings must be given to the attendant of the sick. The rest must be divided by the monks. If there are many attendants the six belongings must be distributed among all equally."[34]

Other monks who were famous and rich died.[35] Their belongings were very numerous, both religious belongings and secular belongings,[36] and they were heaped up at the seniors' end of the assembly. It having been said by the Blessed One: "The six belongings must be taken by the attendant," the attendant, after having repeatedly picked through them, took the very best.

The Blessed One said: "The very best must not be given," and the monks gave him the worst.

The Blessed One said: "The worst must not be given, but the middling must be given to him."

Although perhaps not as edifying as some might like, the literary portraits here look a lot like real people, and this text provides another good example of the almost colloquial style of the language of this *Vinaya*, particularly of the kind of sharp retorts sometimes found in its dialogues. But it is also one of many of its texts that deal in one way or another with the issue of attending to the sick and caregiving. Although little studied, this was clearly a significant preoccupation of the compilers of this code, and the provisions—or even system—that they devised might well have made any community that could implement them attractive to those who lacked the usual familial safety-nets.[37] But some of these provisions—and our text is one of them—could also create further problems.

The initial rule put in place in the *Cīvaravastu* would seem to have been intended to promote attending to the sick and terminally ill by establishing a legally sanctioned material reward for doing so. But the same text indicates—and it is not the only one that does—that the compilers of this code knew or foresaw that the estates of some monks could be very extensive indeed, and the richness of such estates immediately required further provisions: the initial ruling in the *Cīvaravastu* is immediately followed without a break by further provisions dealing specifically and exclusively with the estates of rich monks. These same

32. I have taken *alasa* here as a piece of slang or intentional word-play. It means 'inactive, without energy, lazy, indolent, tired, faint', but in medical texts it or *alasaka* (both forms are used) means 'flatulence'—see for one example D. Wujastyk, *The Roots of Āyurveda: Selections from Sanskrit Medical Writings*, rev. ed. (New Delhi, 2001), 72, and index s.v. 'flatulence'.

33. A *bhagavān āha* has obviously and inadvertently dropped out of the manuscript here—see *Cīvaravastu, Gilgit Manuscripts*, iii 2, 127.1–2; 9–.10; 16–.17 for the formula: *etat prakaraṇaṃ bhikṣavo bhagavata ārocayanti / bhagavān āha . . .* which occurs hundreds of times.

34. For the assignment of multiple attendants to the sick and dying see *Cīvaravastu, Gilgit Manuscripts*, iii 2, 131.8: *yaḥ parṣadvinirmukto 'lpajñātaś ca tasya saṃghenopasthāyiko deyaḥ / glānāvasthāṃ paricchidya eko vā dvau vā saṃbahulā vā / antataḥ sarvasaṃghenopasthānaṃ karaṇīyaṃ /*

35. On *jñāta* and *mahāpuṇya* in the sense of 'famous' and 'rich' see G. Schopen, "Hierarchy and Housing in a Buddhist Monastic Code: A Translation of the Sanskrit Text of the *Śayanāsanavastu* of the *Mūlasarvāstivāda-vinaya*, part one," *Buddhist Literature* 2 (2000): 139–40. Monks who are so described are invariably further described—as here—as having extensive property. A monk who is the opposite of *jñāta* and *mahāpuṇya* is characterized as *alpajñāta*, and just as consistently further described as poor, barely subsisting, and without any supporting network; see the passage cited in n. 34 and its full context.

36. The exact sense of *jīvata-pariṣkāra* remains to be determined. It should mean something like 'equipment for making a living', 'means of livelihood'.

37. For some preliminary remarks on the importance of care-giving in the *Mūlasarvāstivāda-vinaya*—from at least one angle—see Schopen, *Buddhist Monks and Business Matters*, 7–11.

estates, moreover, could, it seems, give rise to suspicions that can only remind one of the opprobrium connected with what in Roman law and literature is called *captatio*, "legacy hunting" or—more correctly according to Champlin—"inheritance hunting," one of the many objects of Juvenal's wit.[38] The compilers of our *Vinaya* seem to have been aware that some might suspect that a monk was attending to another monk simply to inherit his property. In a remarkable passage in the *Saṅghabhedavastu*[39] that is preserved in Sanskrit, the monk Ānanda agrees to be the attendant (*upasthāyaka*) of the Buddha only on several conditions, the first of which is that he would not keep the Blessed One's robes. When this is reported to the Buddha by the monk Maudgalyāyana, the Buddha himself is made to effusively praise Ānanda:

> *sādhu sādhu maudgalyāyana paṇḍita ānando bhikṣuḥ. sa paśyaty anāgataṃ sabrahmacāriṇām antikād vādānuvādaṃ garhasthānīyaṃ dharmaṃ. syur me atonidānaṃ sabrahmacāriṇo vaktāraḥ cīvarahetor ānando bhikṣuḥ śāstāram upatiṣṭhati. maudgalyāyana ānandasya bhikṣor āścaryādbhuto dharmaḥ.*
>
> Excellent! Excellent, Maudgalyāyana! Wise is the monk Ānanda. He sees in the future a controversy and dispute from fellow-monks, a thing involving blame: there might be those that say for the sake of robes the monk Ānanda attends the Teacher. Maudgalyāyana, the character of Ānanda the monk is amazing.

Here again the compilers of this *Vinaya* seem to reveal an appreciation of the wide range of human behavior and foibles, but the suspicion of "legacy hunting" was only one of the uncertainties surrounding this rule. There was a whole series of questions about when and under what conditions it does or does not apply. One of these—as could be anticipated—addresses the issue of both the status and gender of the attendant or nurse.

The text involved here—the second of our second set—come again from the *Uttaragrantha*. It begins with conditions or circumstances that can affect a monk attendant's right to inherit, but ends with questions about the effect of status and gender, and these are of greatest interest for our purposes. In short, they address situations in which the attendant was not a monk and they do so with concision.

IV (= xxi)

> *btsun pa dge tshul phas nad g-yog bgyis na / de la nad g-yog la gos stsal bar bgyi 'am / u pā li sbyin par bya'o /*
>
> *btsun pa dge slong mas nad g-yog bgyis pa las nad pa dus bgyis na de la nad g-yog la gos stsal bar bgyi 'am /*
>
> *mi sbyin no / dge slob ma dang / dge tshul ma rnams kyang de bzin no /*[40]

The speakers here are—as they are throughout this entire section of the *Uttaragrantha*, which is entitled "The Questions of Upāli"—the monk Upāli, the foremost authority in the *Vinaya*, and the Buddha, here addressed as "Reverend One," and the sick person throughout the passage is understood to be a monk.

> "Reverend One, if a male novice (*śrāmaṇera*) acts as the attendant of the sick (*glānopasthāyaka*), are the robes then to be given to the attendant of the sick?"

38. E. Champlin, *Final Judgments: Duty and Emotion in Roman Wills 200 B.C.–A.D. 250* (Berkeley and Los Angeles, 1991), 87–102.

39. R. Gnoli, *The Gilgit Manuscript of the Saṅghabhedavastu: Being the 17th and Last Section of the Vinaya of the Mūlasarvāstivādin* (Serie Orientale Roma, vol. 49.2) (Rome, 1978), Part II, 59–64.

40. *Uttaragrantha*, Derge 'dul ba Na 260a.3–.5.

"Upāli, they must be given."

"Reverend One, if after a nun (*bhikṣuṇī*) has acted as the attendant of the sick, the sick person dies, are the robes to be given to the attendant of the sick?"

"They must not be given. It is also thus for female postulants (*śikṣamāṇā*) and female novices (*śrāmaṇerī*)."

The chronological relationship of the two texts in our second set (III & IV), the *Cīvaravastu* text and the *Uttaragrantha* text, is, of course, and unfortunately, unknown so that even though it might look at first sight as if the latter was amending the former to bring it into line with its other provisions, this cannot be asserted with confidence. It could also be argued, for example, that the *Cīvaravastu* text, addressed as it is only to monks, already implicitly excludes nuns, or that the provisions in the *Uttaragrantha* were so well known that they did not need repeating. The most that can be said, then, is that the two texts taken together—and the *Uttaragrantha* text quite explicitly—indicate once again a clear legal separation between nuns and monks: once again the property of a monk must go to another male, even if that male is only a novice, and it cannot go to any female regardless of her status as attendant. The value of this example is, of course, that here the principle of the legal separation of nuns and monks collides with another rule, the rule that requires that the property of the deceased goes to the person who attended to the deceased, and the strength of the former is made evident by the fact that it overrode the latter: the legal separation of nuns and monks supersedes and blocks the other provision. One further point here, however, needs comment.

The most noticeable thing about I and II taken together is the even-handedness of their gendered rulings, their enshrinement, in effect, of the unexpected axiom that—in our restatement—"what is good for the gander is good for the goose." The absence of the same sort of symmetry in our second set of texts is no less noticeable, and the reasons for it are not immediately obvious. Our own cultural expectations might suggest that while females might commonly or even typically act as attendants or nurses, males would not. But this is not confirmed by what little can be deduced from classical Indian medical texts. Leslie and Wujastyk say, for example:

> Although no explicit statement on this issue is made by Suśruta, it becomes apparent that, while the doctor is invariably male, the sex of the assistant [*upasthātṛ*] is determined by the sex of the patient. Since most of the directives in medical treatises refer to the patient in the masculine form, it is not surprising that the assistant too is assumed to be a man. Where a female patient is specified, however, the nursing assistant is always female.[41]

Nor do our cultural expectations correspond to what occurs in our *Vinaya*. There not only does the Buddha himself act as a nurse, but monks also are repeatedly described as acting as nurses, even outside the monastery and to laymen, and some of these are very senior monks.[42] In all these cases, moreover, the sick person or patient appears to have been male, and no cases have yet been noted of a monk attending to a nun or a nun acting as a nurse to a monk. This would seem not only to be in line with the observation of Leslie and Wujastyk in regard to Indian medical texts, but the nursing of nuns by monks, or monks by nuns, would also seem to be rendered problematic by Buddhist rules against physical contact between

41. J. Leslie and D. Wujastyk, "The Doctor's Assistant: Nursing in Ancient Indian Medical Texts," in *Anthropology and Nursing*, ed. P. Holden and J. Littlewood (London, 1991), 25–30.

42. For some examples, see *Cīvaravastu, Gilgit Manuscripts*, iii 2, 128.1–131.15; 139.19–140.12; Schopen, "Hierarchy and Housing in a Buddhist Monastic Code," 111–12.

members of the opposite sex. In spite of all this, however, our *Uttaragrantha* passage would seem to suggest that its compilers considered instances of nuns, female postulants, and novices acting as attendants or nurses to monks not only possible, but common enough to create problems and to require a formal, legal solution. For now, however, here the matter must rest, and, happily, the asymmetry found in our second set of texts does not reappear in our third.

The third and final set of texts to be treated here is, like the first, a gendered, symmetrical pair, and in fact immediately follows the first set in the *Uttaragrantha*. Both texts of the set deal with the same situation, in the same way, using almost the exact same language. The only difference is that the first deals with the disposition of a deceased monk's property when there are nuns present but no monks available to take it, and the second simply reverses the situation. Here the two are given together.

V (= iv)

Derge 'dul ba Pa 86b.4–.7 = Tog 'dul ba Na 123b.4–124a.2 = Peking 'dul ba Phe 84a.4–.8

gleng gzhi ni mnyan du yod pa na ste / mnyan du yod pa na dge slong gzhan zhig gzhongs[1] *spyad pa spyod cing ri brags kyi*[2] *grong gzhan zhig tu phyin nas / de khyim pa'i khyim zhig tu dus las*[3] *'das te / de des dur khrod du bor nas lhung bzed dang chos gos sbas te bzhag go /*

dus phyi zhig na dge slong ma mang zhig gzhongs[1] *spyad pa spyod cing ri brags kyi*[4] *grong der phyin pa dang / khyim bdag des de dag mthong ste / 'phags ma bdag gi*[5] *khyim du dge slong zhig dus las*[3] *'das pa'i lhung bzed*[6] *dang chos gos 'di lags kyis snoms shig ces smras pa dang / de dag gis smras pa / khyim bdag 'di ni bcom ldan 'das kyis ma gnang bas dge slong dbang ngo /*

de ltar gyur ba dge slong ma dag gis dge slong dag la smras so /

dge slong dag gis bcom ldan 'das la gsol pa dang / bcom ldan 'das kyis gang na dge slong med pa de dag tu ni dge slong ma dag gis[7] *blang bar bya ste / de la the tshom*[8] *ma byed cig ces bka' stsal to /*

[1]Tog: *ljongs.* [2]Peking: *ri brag gis.* [3]Tog omits *las.* [4]Peking: *ri brag gyi.* [5]Peking: *gis.* [6]Peking: *gzed.* [7]Tog omits *gis.* [8]Tog: *tsom.*

VI (= v)

Derge 'dul ba Pa 86b.7–87a.4 = Tog 'dul ba Na 124a.2–b.1 = Peking 'dul ba Phe 84a.8–b.5

gleng gzhi ni mnyan du yod pa na ste / mnyan du yod par dge slong ma mang zhig gzhongs[1] *spyad pa spyod cing dong ba na de*[2] *dag las dge slong ma zhig na bar gyur nas / de dal bus 'gro zhing phyi nas 'ong ba las*[3] *de*[4] *lam stor te / ri brags kyi grong gzhan zhig tu phyin nas de khyim pa'i khyim du dus las*[5] *'das so /*

des de dur khrod du bor nas lhung bzed dang chos gos sbas te bzhag[6] *go / de nas dus phyi zhig na dge slong mang zhig gzhongs*[1] *spyad pa spyod cing ri brags kyi grong der phyin pa dang / khyim bdag des de dag mthong nas 'phags pa dag bdag gi khyim du dge slong ma zhig dus las*[5] *'das te /* [7]*de'i lhung bzed dang chos gos 'di lags kyis snoms shig ces smras pa dang / de dag gis smras pa / khyim bdag bcom ldan 'das kyis ma gnang ste / 'di*[8] *dag ni dge slong ma dbang no /*

de ltar gyur ba dge slong rnams kyis bcom ldan 'das la gsol pa dang / bcom ldan 'das kyis gang na dge slong ma med pa der ni dge slong rnams kyis blan bar bya ste / de la the tshom[9] *ma byed cig ces bka' stsal to /*

[1]Tog: *ljongs.* [2]Derge has *da*, but has been emended. [3]Tog: *la.* [4]Tog: *des.* [5]Tog omits *las.* [6]Derge has *bzhug*, but has been emended in light of V; Peking: *gzhag.* [7]Tog inserts *des.* [8]Tog: *de.* [9]Tog: *tshom.*

V (= iv)

The determining event was in Śrāvastī (*śrāvastyāṃ nidānam*), and in Śrāvastī a monk was traveling through the countryside (*janapadeṣu cārikāṃ caran*). When he reached a border town (*karvaṭaka*) he died in the house of a layman, and when that layman had thrown him into the cemetery (*śmaśāne chorayitvā*)[43] he kept his bowl and robes and stored them away.

At a later time many nuns traveling through the countryside reached that border town, and that householder, seeing them, said: "Noble Ladies, since these are the bowl and robes of a monk who died in my house you must take them!" But they said: "Householder, the Blessed One has not authorized this—a monk is the owner."

The nuns told the monks what had occurred.

The monks reported it to the Blessed One, and the Blessed One said: "Where there is no monk, there nuns must take them (*grahītavya*)—concerning that there must be no doubt!"

VI (= v)

The determining event was in Śrāvastī, and in Śrāvastī many nuns were traveling through the countryside and when, while they were going along, one of the nuns among them got sick; because she moved slowly and fell behind, she lost her way. After reaching a border town she died in the house of a layman.

When that layman had thrown her into the cemetery he kept her bowl and robes and stored them away.

Then at a later time many monks traveling through the countryside reached that border town, and when that householder saw them he said: "Noble Ones, a nun died in my house and since these are her bowl and robes you must take them!" But they said: "Householder, the Blessed One has not authorized it—a nun is the owner."

The monks reported to the Blessed One what had occurred, and the Blessed One said: "Where there is no nun, there monks must take them[44]—concerning that there must be no doubt!"

Like I and II and as already noted, V and VI are a matched pair—essentially the same account gendered differently. As in the first set, so too here the gendering goes beyond the mere substitution of *bhikṣuṇī* for *bhikṣu* or feminine for masculine pronouns and forms of address. Notice, for example, that in the case of the monk the fact that he was traveling and died alone is taken as a given and is unproblematic, but how this could happen in the case of a nun has got to be narratively explained since nuns were not supposed to wander on their own. Notice too that as in II, so in V the hierarchical subservience of nuns to monks is again marked by the fact that procedurally nuns cannot directly report to the Buddha, but here too that hierarchical subservience has no bearing or effect on a nun's legal rights to property: given the absence of monks, nuns have exactly the same right to the property of a deceased monk as monks have to that of a nun in the same, though reversed, circumstances. Here, then, legally gender does not matter: what applies to one sex applies equally to the other, and yet the principle of their separation remains intact.

43. For this expression see, as one of many possible examples, *Cīvaravastu, Gilgit Manuscripts*, iii 2, 127.5. It is generally used to describe the disposal of a body *without* the performance of proper funeral rites and cremation by simply abandoning it in a *śmaśāna*. A. L. Basham notes that "in most literary references the *śmaśāna*, or cremation ground, is described as covered with putrefying corpses and haunted by dogs and vultures, rather than as the scene of cremation. The descriptions of such places show that many people in ancient India did not cremate their dead, but . . . merely abandoned their bodies to the wild beasts" (*The Wonder that was India*, 3rd ed. [New York, 1968], 178).

44. The text here has *der* but the corresponding passage in V has *de dag tu*, which is probably to be preferred.

Obviously, on one level V and VI are modifying or restricting the application of the principle that "what belongs to a monk must go to a monk, and vice versa," but their modification at the same time implicitly affirms it: it remains the rule *except* under specific circumstances, *except* in the absence of fellow religionists of the same sex. Indeed, the strength of the principle of separation seems to be indicated both by the fact that the exception was not simply added as a rider to the original rule, but required separate legislation, and by the forceful exhortation not to be in any doubt that ends both V and VI, and is not typical.

It is probably equally obvious that V and VI were, as it were, meant to keep monastic property "in the family," to prevent it from falling to lay hands or to the state, and our monastic code explicitly addresses this issue elsewhere as well.[45] Here, however, any "familial" assertion is either implicit or carried by the redactional placement of V and VI. In neither V or VI is there any justification given for the claims of nuns or monks to the property of other monks or nuns, and it seems they could only be based on the assertions made in I and II which—as we have seen—were never rejected: there nuns claim that a monk was their "brother-in-the-Dharma" and monks claim a nun as their "sister-in-the-Dharma" and, while never denied, I and II rule that this "fact" is overruled by the principle of the strict legal separation of nuns and monks in regard to property. The "familial" relationship appears, however, to remain in effect. It may be that the placement of V and VI immediately after I and II was meant to indicate that the redactors of the *Uttaragrantha* wanted this to be understood, and wanted implicitly to reaffirm the validity of the "familial" relationship because it had just been overridden. This last, of course, must remain conjectural, but it would at least fit with the delicate and difficult project that all the texts reviewed here seem to aim at: to introduce, or formally sanction and reaffirm, the strict legal separation and independence of Buddhist nuns (women) and Buddhist monks (men), while at the same time maintaining that both female and male members belonged equally to the same fictive kin group, to the same "family," that, in short, female and male were separate but equal, at least in legal terms. This might be thought a difficult position to maintain—and perhaps a surprising one to be found in classical India—and yet it might well be judged a worthy one, and it is all the more unfortunate that even now we still know so little about it.

45. For example, at *Cīvaravastu, Gilgit Manuscripts*, iii 2, 118.13–121.5 (translated at Schopen, *Buddhist Monks and Business Matters*, 115–16); 139.6–143.14 (translated at ibid., 117–19). But see also *Cīvaravastu, Gilgit Manuscripts*, iii 2, 145.10, where a monk's bowl and robes, when they are a 'fiduciary deposit' (*prativastu*) could go to a layman (the exact sense of *prativastu*, however, remains to be determined).